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AUG 30 2013

DIV. OF OIL, GAS & MINING

Incoming  
S/023/0088  
cc: Wayne  
Paul



## United States Department of the Interior

### BUREAU OF LAND MANAGEMENT

Fillmore Field Office

95 E 500 N

Fillmore, UT 84631

<http://www.blm.gov/ut/st/en/fo/fillmore.html>



IN REPLY REFER TO:  
3809 (UTW02000)  
UTU-79862

August 27, 2013

CERTIFIED MAIL # 7012 3460 0000 6633 0168

Return Receipt Requested

### DECISION

Dale S. Lowder and Kenneth F. Lowder	:	
Metamining of Utah, LLC	:	43 CFR 3809
459 South 300 East	:	SURFACE MANAGEMENT
Springville, Utah 84663	:	

#### Operation Abandoned – Notice of Noncompliance

Operation Abandoned – The Fillmore Field Office (FFO) has inspected your Black Desert Mine Plan of Operations, Bureau of Land Management (BLM) case file number UTU-79862, on October 6, 2009; August 4, 2011; May 3, 2012; September 22, 2012; and June 21, 2013. The Utah Division of Oil, Gas and Mining (UDOGM) case file number for your Black Desert Mine is S/023/0088.

We have determined that your operation has been abandoned. During our inspections, no company personnel or equipment were present in the project area and there was no sign of recent activity. We have also determined that reclamation on the project is not complete as required by your Plan of Operation and the applicable rules. In addition, your Plan of Operations contains no provisions for a hiatus in operations or stabilization of the site in the event of an extended shutdown. The Black Desert Mine is therefore in Noncompliance.

If you wish to resume operations at this site in the future, you must submit a new and revised mining Plan of Operations, including provisions for work stoppages and stabilization of the site during cessations of mining activity. Please contact the BLM Fillmore Field Office within 30 days if you intend to submit a new Plan of Operations. If you do not submit a new Plan of Operations, then you must begin reclamation activity.

Reclamation Required – If you do not wish to submit a new mine plan, then within 30 days of issuance of this decision, you must commence reclamation activity required by your Plan of Operations on file with the BLM. All reclamation, including required earthwork and reseeding, must be completed within 60 days of this decision. BLM resource specialists will continue to



monitor your progress in meeting your reclamation obligations, including the success of the re-vegetation in the disturbed area. The BLM will inform you when all reclamation standards have been met and whether the financial guarantee amount may be reduced.

Should you fail to commence reclamation within 30 days of this decision or fail to complete necessary reclamation within 60 days of issuance of this decision, BLM will initiate forfeiture of all or part of your financial guarantee as provided for under 43 CFR §3809.595.

Appeal of the Decision - If you do not agree and are adversely affected by this decision, in accordance with 43 CFR § 3809.804, you may request that the BLM Utah State Director review this decision. If you request a State Director review, the request must be received in the BLM Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive or have been notified of this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in 43 CFR § 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a Stay is granted by the State Director. Standards for obtaining a Stay are given below. If you request a Stay, you have the burden of proof to demonstrate that a Stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of BLM's receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the BLM Utah State Office to determine when BLM receives the request for State Director Review. You have 30 days from the end of the 21 day period in which to file your Notice of Appeal with this office at 35 East 500 North, Fillmore, Utah 84631, which will be forwarded to IBLA.

If you wish to bypass a State Director review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR § 3809.801(a) (1). Your Notice of Appeal must be filed in this office at 35 East 500 North, Fillmore, Utah 84631 within 30 days from receipt of this decision. As the appellant, you have the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations 43 § CFR 4.21 for a Stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a Stay must accompany your notice of appeal. A petition for a Stay is required to show sufficient justification based on the standards listed below. Copies of the Notice of Appeal and petition for a Stay must also be submitted to each party named in the decision and to the Office of the Regional Solicitor, U.S. Department of the Interior, 6201 Federal Building, 125 South State Street, Salt Lake City, Utah 84138-1180, at the same time the original documents are filed with this office. If you request a Stay, you have the burden of proof to demonstrate that a stay should be granted based on the standards listed below.

#### Standards for Obtaining a Stay

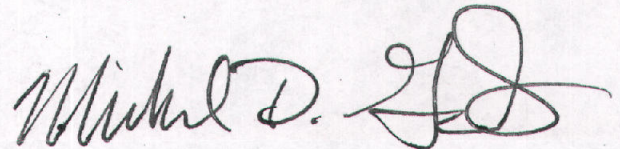
Except as otherwise provided by law or other pertinent regulation, a petition for a Stay of a decision pending appeal shall show sufficient justification based on the following standards:



1. The relative harm to the parties if the Stay is granted or denied,
2. The likelihood of the appellant's success based on the merits,
3. The likelihood of immediate and irreparable harm if the Stay is not granted, and
4. Whether the public interest favors granting the stay.

Should you have any questions, please contact Duane Bays, FFO Natural Resource Specialist, at (435) 743-3115.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael D. Gates", followed by a stylized flourish or second signature.

Michael D. Gates  
Field Manager

Enclosure: Form 1842-1

cc:

Paul Baker

UDOGM

1594 W North Temple Suite 1210

Salt Lake City, UT 84114

Opie Abeyta (UT-923)

BLM-Utah State Office

440 West 200 South, Suite 500

Salt Lake City, UT 84101-1345

Steve Young

Black Desert Mining, LLC

1669 South 580 East

American Fork, Utah 84003